

**TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE PATENTING
REJECTION OVER PENDING "REFERENCE" APPLICATIONS**

Docket Number (Optional)
9378/191

In re Application of: Roche et al.
Application No.: 10/531,804
Filed: January 26, 2006
For: Production of Titania

The owner*, BHP Billiton Innovation Pty Ltd., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 7,326,390 and of the full statutory term of any patent granted on pending reference Application Numbers (1) 10/531,784, filed on 02/16/2006 and (2) 10/531,795 filed 05/05/2006 as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said reference applications may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference applications. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent and any patent granted on the reference applications is commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent and any patent granted on said reference applications, "as the term of any patent granted on said reference applications may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference applications," in the event that any such patent granted on the pending reference applications expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney of record. Registration No. 34,401

/G. Peter Nichols/
Signature

August 18, 2008
Date

G. Peter Nichols
Typed or Printed Name

312.321.4200
Telephone No.

- ☒ Terminal disclaimer fee of \$130.00 under 37 CFR §1.20(d) is included.
☐ A check in the amount of the fee is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☒ The Commissioner is hereby authorized to charge any fees which may be required or credit any overpayment to Deposit Account No. 23-1925.

*Certification under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.